

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT GLENN FLESHMAN,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

CASE NO. 14-cv-05426 RJB

REPORT AND RECOMMENDATION
ON STIPULATED MOTION FOR
REMAND

This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by *Mathews, Secretary of H.E.W. v. Weber*, 423 U.S. 261 (1976). This matter is before the Court on Defendant's Stipulated Motion to Remand pursuant to sentence six, 42 U.S.C. § 405(g). (ECF No. 15)

After reviewing Defendant's motion and the relevant record, the undersigned recommends that the Court grant Defendant's motion, and remand this matter to the Acting Commissioner, pursuant to sentence six of 42 U.S.C. § 405(g), because, during Plaintiff's

1 administrative proceedings, the Appeals Council denied review of the denial of his application
2 for disability benefits without first: (1) providing his representative with a copy of the case
3 Compact Disc (CD) and exhibits; and (2) allowing Plaintiff's representative to file a brief. Thus,
4 good cause exists to support the request for remand.

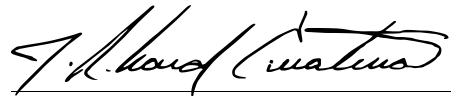
5 On remand, Plaintiff will be provided with a copy of the case CD and exhibits, and the
6 Appeals Council shall give Plaintiff's representative the opportunity to file a brief and will
7 consider Plaintiff's request for review again.

8 This Court shall retain jurisdiction over this action pending further administrative
9 proceedings pursuant to 42 U.S.C. § 405(g). *See Shalala v. Schaefer*, 509 U.S. 292, 297-300
10 (1993).

11 If the outcome of the Appeals Council's review is not fully favorable to Plaintiff, Plaintiff
12 may seek judicial review by reinstating this case rather than by filing a new complaint. If the
13 outcome is favorable to Plaintiff, the parties shall move this Court for entry of Judgment.

14 Given the facts and the unopposed nature of the motion, the Court recommends that the
15 District Judge immediately approve this Report and Recommendation and order the case be
16 **REMANDED** pursuant to sentence six of 42 U.S.C. § 405(g).

17 Dated this 18th day of September, 2014.

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20 J. Richard Creatura
21 United States Magistrate Judge
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